History of international law

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I. Introduction

The aim of this chapter is to give an overview about the peculiarities of Switzerland in the history of international law, looking into the origin of what nowadays Switzerland represents within the international community.

Switzerland is one of the most prominent states in terms of the hosting of international organisations and NGOs. The international community values Switzerland's role as a mediator, due to its long-standing international policy of neutrality: Within the Peace of Westphalia of 1648 Switzerland's independence was recognized by the European powers. Furthermore, after the Napoleonic wars both at the Congress of Vienna in 1814/1815 and within the Treaty of Paris (20 November 1815), the perpetual neutrality of Switzerland was formally recognized by the international community. Switzerland also enjoys positive international reputation, stemming from its humanitarian engagements which began to take root in the 19th century. But what are the historical legal foundations that have shaped Switzerland's role?

The following sections will examine two prominent developments in Switzerland's history of international law between the 18th and 20th century. The first development to be discussed is the dissemination of the theories of natural law and the law of nations during the 18th century in the French-speaking part of Switzerland (II.1.). The ideas of Emer de Vattel are key here: he made an essential contribution to the evolution of modern international law (II.2.) The second development examines the emergence of international humanitarian law that took place in Switzerland in the 19th century which led to the preeminent role of Switzerland in this field of law. First, the creation of the International Committee of the Red Cross by, among others, Henry Dunant will be discussed (III.1.). Furthermore, the efforts of Zurich-born lawyer Johann Caspar Bluntschli in his attempts to codify international law and his contributions to the founding of the International Law Institut (Institut de droit International) together with Gustave Moynier will be addressed (III.2.).

II. Theories of Natural Law and Law of Nations

1. The Spread of Theories of Natural Law and the Law of Nations

At the beginning of the 18th century, the so-called Romandy School of Natural Law (Ecole romande du droit naturel) was established in the French-speaking part of Switzerland and achieved great influence mainly in Europe during the 18th and 19th centuries. It can be perceived as a mediation between the German natural law theories (represented, among others, by Samuel Pufendorf, Christian Thomasius, and Christian Wolff) and the French ones symbolised, most prominently, by the works of Montesquieu, Rousseau, and Voltaire. Geneva, Lausanne, Neuchâtel, and Yverdon were the main knowledge centres in which natural law and law of nations theories circulated. The most important contributors included jurists and philosophers, such as Jean Barbeyrac (1674–1744), Jean-Jacques Burlamaqui (1694–1748), Fortunato Bartolomeo de Felice (1723–1789), and Emer de Vattel (1714–1767).

Although there was not an explicit "school" within the natural law movement, with the term "école" historians refer to the common features shared by those authors who, during their careers as professors and editors, played a key role in the spread of natural law theories. These scholars had a strong predisposition for Enlightenment ideas within a specific geographical context, that is, in Switzerland and particularly in the French-speaking part of Switzerland.

The Huguenot[1] and French citizen Jean Barbeyrac was already a well-established natural law scholar by the time he arrived in Lausanne in 1711:

1 A Huguenot was *"A French Protestant of the 16th and 17th centuries. Largely Calvinist, the Huguenots suffered severe persecution at the hands of the Catholic majority, and*

he was renowned throughout Europe due to his widely annotated French translations of Samuel Pufendorf's major works on natural law "The Law of Nature and Nations" ("Le droit de la nature et des gens"), 1706, and "On the Duty of Man and Citizen" ("Des devoirs de l'homme et du citoyen"), 1707.[2] Later, after he'd arrived and started working in Lausanne, Barbeyrac also translated the writings of Richard Cumberland and of Hugo Grotius' "The Rights of War and Peace", the latter translation being published as "Le droit de la guerre et de la paix" in 1724.[3] Jean-Jacques Burlamaqui taught natural law in Geneva, using Barbeyrac's French translation of Pufendorf's "On the Duty of Man and Citizen". He published his manual on natural law under the name "Principles of Natural Law" ("Principes du droit naturel"), 1747. The "Principles of Political Rights" ("Principes du droit politique"), 1751, were posthumously edited by Burlamaqui's friends on the basis of his notes. Burlamaqui's notebooks (cahiers) provided the basis for some other scholars to publish pieces which expanded on his natural law theory. Among them was Fortunato Bartolomeo de Felice (1723–1789), a former Catholic priest and professor in Rome and Naples who fled to Bern in 1757, converted to Protestantism then became a major cultural mediator and publisher. In 1762, he settled in Yverdon where he founded a publishing house and directed the creation of the so-called Yverdon Encyclopedia (Encyclopédie d'Yverdon), a Protestant adaptation of the Paris Encyclopedia (Paris Encyclopédie).[4] Among many other works, de Felice published a new edition of Burlamaqui's natural law courses "The Principles of Natural Law and the Law of Nations" ("Les principes du droit de la nature et des gens") in eight volumes between 1766 and 1768. Within this new edition, de Felice incorporated some of Burlamaqui's

many thousands emigrated from France" (Source: Oxford Dictionary, https://perma.cc/Z6YD-DDGH).

2 Samuel Pufendorf (1632–1694) was a German jurist, political philosopher, and historian who was renowned for his works on natural law and law of nations. He held the first European chair in natural law and law of nations in Heilderberg in 1661. Barbeyrac translated Pufendorfs most influential works "On the Duty of Man and Citizen" (De officio hominis et civis), 1673, and "The Law of Nature and Nations-8th book" (De iure naturae et gentium-libri octo), 1672.

3 Meri Päivärinne, Translating Grotius's De jure belli ac pacis: Courtin vs Barbeyrac, in Translation Studies Volume 5, Issue 1, 2012, pp. 33.

4 Encyclopaedia, or a Systematic Dictionary of the Sciences, Arts, and Crafts (Encyclopédie ou Dictionnaire raisonné des sciences, des arts et des métiers, par une Société de Gens de lettres). It was published in France, between 1751 and 1772, under the direction of Denis Diderot and Jean le Rond d'Alembert.

unpublished thoughts, gathered from the latter's notebooks on natural law. De Felice also included his own comments in these publications.

2. Emer de Vattel and his Law of Nations (1758)

Emer de Vattel (1714–1767), a native of Neuchâtel, is most renowned for his treatise on the law of nations, entiteld "The Law of Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns" (Le droit des gens, ou Principes de la loi naturelle, appliqués à la conduite et aux affaires des Nations et des Souverains), 1758. He had become acquainted with natural law during his period of study in Geneva, having as professor presumably Jean Jacques Burlamaqui. Instead of harbouring a strong intention from the outset to produce a work on the law of nations, he had initially only intended to provide a French translation of Christian Wolff's "The Law of Nations treated according to the Scientific Method" ("Ius gentium methodo scientifica pertractatum"), 1749.[5] However, he then decided to compose a more independent piece of work on the basis of Wolff's theory of the law of nature and nations.

To give some historical context, Vattel wrote his Law of Nations ten years after the publication of "The Spirit of Laws" ("L'esprit des lois") by Montesquieu and five years before the "The Social Contract" ("Contract Social") by Rousseau. His work made a vital contribution to the development of modern international law.[6] The core of Vattel's "Law of Nations" was an emphasis on the tension between the law of nature and the law of nations. He criticised his predecessors for having constructed the law of nations on the basis of theoretical deductions concluded from general principles. Vattel, in contrast, focused on the practice of states, writing exclusively for sovereigns. He wrote:

> *"The law of nations is the law of sovereigns. It is principally for them and for their ministers that it ought to be written. All mankind are indeed interested in it; and, in a*

5 Christian Wolff (1679–1754) was a German jurist, philosopher, and mathematician. He belonged to the school of Rationalist philosophy of the German Enlightenment and he is considered the most eminent German thinker between Leibniz and Kant.

6 Vincent Chetail, Vattel and the American Dream: An Inquiry into the Reception of the Law of Nations in the United States, in Pierre-Marie Dupuy/Vincent Chetail (eds.), The Roots of International Law, Liber Amicorum Peter Haggenmacher, Leiden/Boston 2014, pp. 251, p. 295.

> *free country, the study of its maxims is a proper employment for every citizen: But it would be of little consequence to impart the knowledge of it only to private individuals, who are not called to the councils of nations, and who have no influence in directing the public measures. If the conductors of states, if all those who are employed in public affairs, condescended to apply seriously to the study of a science which ought to be their law, and, as it were, the compass by which to steer their course, what happy effects might we not expect from a good treatise on the law of nations!"*[7]

There are some fundamental aspects of the Law of Nations. Vattel applied a strictly inter-state perspective: the law of nations is specifically the law governing relations between states. Vattel relegates the individual to the position of being part of the state's internal sphere.[8] For Vattel, the law of nations "*is the science which teaches the rights subsisting between nations or states, and the obligations correspondent to those rights*".[9] He dismissed individuals from the scene, thereby perceiving nations to be compact entities confronting each other within a distinct sphere of action. International society thus becomes a true society of sovereign, equal, and independent states – each bound by the fundamental obligation of self-preservation.[10] Vattel established the principle that sovereign states are the legal subjects of classical international law.

Vattel unreservedly recognised the existence of a duality of norms governing the conduct of sovereign states: the norms imposed by natural law and those imposed by the positive law of nations. By virtue of their sovereign will, he argued, only states have the capacity to determine the applicability of international legal rights and obligations. In this regard it can be said that Vattel opened the door to the modern idea of sovereignty. He theorised a law of nations that is both "*liberal and pluralist*" and which is very much in line with the state of European society at the time of the Enlightenment, the

7 Emer de Vattel, The Law of Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, with Three Early Essays on the Origin and Nature of Natural Law and on Luxury, edited and with an introduction by Bela Kapossy/Richard Whatmore, Indianapolis 2008, p. 18.

8 Emmanuelle Jouannet, Emer de Vattel (1714–1767), in Bardo Fassbender/Anne Peters (eds.), The Oxford Handbook of the History of International Law, Oxford 2012 (cit. Jouannet, Emer de Vattel), pp. 1118. See also Emmanuelle Jouannet, The Liberal-Welfarist Law of Nations, A History of International Law, translated by Christoper Sutcliffe, Cambridge 2012.

9 Vattel, p. 67.

10 Jouannet, Emer de Vattel, pp. 1118.

period within which Vattel was writing.[11] The "The Law of Nations" set the benchmark for a new political and legal science, subjected to a remarkable number of translations and commented editions published all through the 19th century in Europe and beyond. The following quote describes Vattel's relevance in the North American context:

> "*Vattel's treaty on the law of nations was quoted by judicial tribunals, in speeches before legislative assemblies, and the decrees and correspondence of executive officials,* [...] *it was also used as the student's manual, the reference work of the statesman and the text from which political philosophers drew inspiration*".[12]

11 Jouannet, Emer de Vattel, pp. 1118.

12 Charles G. Fenwick, The Authority of Vattel, in American Political Science Review, Volume 7, Issue 3, Baltimore 1913, pp. 395; see also for the reception Chetail, pp. 251.

III. The Era of International Humanitarian Law

Throughout the 19th century, the Swiss and European legal environment was characterised by attempts to codify international law and by the development of international humanitarian law. In fact, the 19th century can truly be regarded as the century of international law par excellence. It was during this period that international law began to assume its precise characteristics and a legal science began to appear as a subject separate from those of diplomacy and natural law. The protagonists pushing the development of this separate subject were international lawyers. It was recently written that

> "[*i*]*nternational lawyers called to mediate between universalism and nationalism, humanitarian aspirations and colonial impulses, technical, economic and financial challenges, nations and states, recognized states as subjects of knowledge with regard to that they incorporated a deep supranational dimension into their general principles. International law became the product of a historical reflection by an elite of intellectuals that, through an organic relationship with the conscience of civilized nations, translated value into a scientific system*".[13]

The international lawyers of this century, in fact, lived through a period of radical change in international affairs. This had begun in the late 18th century with the American and French Revolutions, the collapse of the Napoleonic Empire and the events that led to the Congress of Vienna, during which the Holy Alliance had laid the ground for the development of a new international order. The order of 1815 had to be redesigned in the mid-19th century due to the Crimean war that ended with the agreement of the Paris Treaty of 1856. Important developments in international law during the 19th century, particularly regarding the role played by Swiss jurists and men, are the emergence of the international humanitarian law, the creation of the International Law

13 Luigi Nuzzo/Miloš Vec, The Birth of International Law as a Legal Discipline, in Luigi Nuzzo/Miloš Vec (eds.), Constructing International Law, The birth of a discipline, Frankfurt a.M 2012, p. XII.

Institut (Institut de droit international) in 1873, and different attempts to codify international law.

1. Henry Dunant and the International Committee of the Red Cross

Henry Dunant (1828–1910), a Swiss merchant from Geneva, contributed fundamentally to the development of humanitarian law by formulating the idea of the International Committee of the Red Cross. Dunant was born into a wealthy and influential family in Geneva. From 1853, he worked in North Africa, overseeing the French colonies' commercial interests. In Algeria, he encountered difficulties with the French authorities: it was due to such circumstances that he travelled to meet Napoleon III in Italy where the latter was battling Austrian forces at the time. In 1859, Dunant arrived in the small town of Solferino during his trip to meet Napoleon, where close to 40'000 soldiers lay dead or wounded on the battlefield. Dunant was confronted with this sight during his visit. There were no organised medical divisions within the armed forces. Medical provisions were inadequate, doctors scarce, equipment poor, and transport sparse. Many soldiers died from simple wounds as a result of a lack of knowledge or proper care. In response to this state of affairs, Henry Dunant brought in food, water, and supplies to try to ensure adequate medical basic medical aid. He rallied the local population into providing assistance, making no distinction between the nationalities of the wounded. The term "tutti fratelli" ("all brothers") was coined as rationale for the principle of impartial medical assistance in armed conflict.

Dunant recorded his experience in Italy in the book "A Memory of Solferino", which he wrote upon his return to Geneva and published in 1862. Through the medium of the book, he campaigned for the humane treatment of combatants and the protection of the wounded during warfare. The Geneva Public Welfare Society, that had as chairman the jurist Gustave Moynier, received Dunant's plea positively, forming a committee in response to the publication. In February 1863 the five-member committee, constituted by Dunant, Moynier, Dr. Louis Appia, Dr. Théodore Maunoir and General Dufour convened to discuss Dunant's proposals. As a result they formed the Permanent International Committee for the Relief of Wounded Soldiers that later became the International Committee of the Red Cross (ICRC).

In October of the same year, an international conference with governmental representatives was organized to formalise the concept of introducing

national relief societies. The conference also agreed upon a standard emblem which would identify medical personnel on the battlefield: a red cross on a white background; a reversed-colour tribute to the Swiss flag and the neutrality it represents.[14]

In 1864, the Swiss government called a second conference that resulted in the adoption of the *Convention for the Amelioration of the Condition of the Wounded in Armies in the Field* which entered into force in 1865. The main principles laid down in the Convention are:

- Relief to the wounded without any distinction as to nationality
- Neutrality (inviolability) of medical personnel and medical establishments and units
- The distinctive symbol of the organisation: the red cross on a white ground.[15]

Figure 1: Henri Dunant, 1828–1910[16]

14 International Committee of the Red Cross, The History of the Emblems, 2007, (https://perma.cc/M4LV-6XGX).

15 Dietrich Schindler/Jiří Toman, The Laws of Armed Conflicts, Dordrecht 1988, pp. 280.

16 Source: Red Cross and Red Crescent (https://perma.cc/A4LD-RTRC).

The first Geneva Convention of 1864, regulating the protection of the wounded combatants in the field was amended in 1906, in 1929, and finally in 1949. It was complemented by three other Geneva Conventions regulating maritime warfare, the treatment of prisoners of war and the protection of civilians. The four Geneva Conventions were ultimately amended in 1949 and constitute today the Geneva Convention, that is the *Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* (*I*), *the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea* (*II*), *The Convention relative to the Treatment of Prisoners of War* (*III*), *and the Convention relative to the Protection of Civilian Persons in Time of War* (*IV*). The Convention received three Additional Protocols, the first two in 1977 and the third in 2005. The second Additional Protocol explicitly extends the scope of international humanitarian law to non-international armed conflicts.[17]

The ICRC was at the origin of the International Federation of Red Cross and Red Crescent Societies and the 191 National Red Cross and Red Crescent Societies which form today a humanitarian network, guided by the same seven fundamental principles: universality, humanity, impartiality, neutrality, independence, voluntary service, and unity.[18]

Despite his achievements in the field of humanitarian law, Dunant himself had a life that could be considered somewhat unfortunate. In 1867, his commercial interests in Algeria took a downturn leading to his eventual bankruptcy. Above all he had to resign from the Red Cross – the very organisation his ideas had inspired. He left Geneva in 1867. From 1887 until his death in 1910 he lived in relative isolation in the Swiss village of Heiden. In 1901 he received the first Nobel Peace Prize, jointly with the French pacifist Frédéric Passy. Dunant is buried in the Sihlfeld cemetery in Zurich.

17 Robert Kolb, The Protection of the Individual in Times of War and Peace, in: Bardo Fassbender/Anne Peters (eds.), The Oxford Handbook of the History of International Law, Oxford 2012, pp. 324.

18 International Committee of the Red Cross, Founding and Early Years of the ICRC, 2010 (https://perma.cc/64BT-RQWW).

2. Founding of the Institute of International Law (1873)

Some of the most important 19th century international lawyers joined forces to create the Institute of International Law (Institut du droit international). It was founded in Ghent on 8 September 1873. The aim of the Institute of International Law, which presents itself as an authority on the legal conscience of the civilised world, is to promote the development of international law. It vowed to raise awareness for and to lay down the general principles of international law, and finally to contribute to its gradual codification. Its maxim is "Justitia et pace". In 1904 it was awarded the Nobel Peace Prize and it exists until today.[19]

The founders of the Institute who convened for three days in September 1873 in the Salle de l'Arsenal of the Ghent Town Hall, were the jurists: Pasquale Stanislao Mancini (Italy), Émile Louis Victor de Laveleye (Belgium), Tobie Michel Charles Asser (Holland), James Lorimer (Scottland), Wladimir Besobrassof (Russia), Gustave Moynier (Switzerland), Johann Caspar Bluntschli (Switzerland), Augusto Pierantoni (Italy), Carlos Calvo (Argentina), Gustave Rolin-Jaequemyns (Belgium), and David Dudley Field (United States). The variety of nationalities represented the international character and aim of the Institute. Two of these jurists came from Switzerland: the aforementioned Gustave Moynier and Johann Caspar Bluntschli. These two influential persons will presently be discussed in more detail.

19 More information on the website of the Institute: http://www.idi-iil.org/en/ (https://perma.cc/692V-FLTK).

a) Gustave Moynier (1826 -1910)

Figure 2: Gustave Moynier (1826–1910)[20]

Gustave Moynier (1826–1910) played a significant role in shaping the foundations of international humanitarian law, in two key ways. First, together with Henry Dunant, he initiated the founding of the ICRC. Secondly, he was also involved in working towards the establishment of a permanent international criminal court. Moynier was born in 1826 into a commercial and industrial family of Geneva. Due to political unrest there, he relocated to Paris at the age of twenty where he subsequently completed his legal studies. His marriage to Jeanne-Françoise Paccard afforded him the financial independence necessary to allow him to dedicate his time to questions of public welfare upon his return to Geneva in 1851. Moynier's attention had been caught by Henry Dunant's witness account and associated analysis regarding the battle at Solferino. He brought the matter before the Geneva Society for Public Welfare which examined Dunant's vision of institutionalising the care for

20 Source: Red Cross and Red Crescent (https://perma.cc/5V32-X9JZ).

the wounded during armed conflict. Moynier played an active role in the organisation. He took a pragmatic approach to the organisation which eventually clashed with the idealism of Henry Dunant, leading to the deterioration of their relationship. Ultimately, Henry Dunant was required to leave the organisation, while Moynier remained its president until his death.[21]

Remarkably considering the time period, Moynier also coined the idea of creating an international criminal tribunal to prosecute breaches of humanitarian law. In 1872, he published his draft "Note on the creation of a specific international judicial institution to prevent and punish violations of the Geneva Convention" ("Note sur la Création d'une Institution Judiciaire Internationale propre à prévenir et à réprimer les Infractions à la Convention de Genève"). Within this draft, he proposed a panel that would decide on cases involving breaches of the Geneva Convention occurring during a war between member states to the treaties. Moynier saw the need to enforce the Convention and direct criminal responsibility to the respective perpetrators and to impose monetary penalties against belligerent states.[22]

His draft proposal was widely recognized but also heavily criticised. Some lamented the lack of an enforcing authority with regard to the proposals. Others did not see the need for the creation of a new institution, preferring to stick to the traditional means of bilateral arbitration. Interestingly, Moynier himself had followed a fundamental change of heart with his draft proposal. Later on, he had been opposed to the idea of granting jurisdiction over international criminal matters to an international body, believing that the threat of critical public opinion and indignation would suffice to deter potential breaches of humanitarian law.[23]

Aside from the proposal for an international criminal tribunal, Moynier also drafted a manual which aimed to codify already existing legal principles of warfare. This Manual on the Laws of War on Land was more favourably received, being unanimously adopted by the Institute of International Law at its conference in Oxford in 1880. It is still known as The Oxford Manual to this day.[24]

21 Benedict von Tscharner, Inter Gentes: Statesmen, Diplomats, Political Thinkers, Geneva 2012, pp. 163.

22 Christopher Keith Hall, The First Proposal for a Permanent International Criminal Court, in International Review of the Red Cross Volume 38, Issue 322, 1998, pp. 57.

23 Hall, pp. 57.

24 Von Tscharner, pp. 36.

b) Johann Caspar Bluntschli (1808–1881)

Figure 3: Johann Caspar Bluntschli (1808–1881)[25]

Johann Caspar Bluntschli (1808–1881) was born in Zurich. He attended school in Zurich and consequently moved to complete his legal studies in Berlin and Bonn, eventually being awarded with a doctoral degree from the University of Bonn. He was a student of Friedrich Carl von Savigny who introduced him to the so called German Historical School; which influenced Bluntschlis own work and teaching substantially. Upon his return to Zurich in 1830, he became extraordinary professor in 1833 and then ordinary professor in 1836. He held seats in the municipal and cantonal parliaments of Zurich and founded the liberal-conservative party. In 1840, Bluntschli was asked to finalise the drafting efforts for the Zurich civil code, which he successfully did. In 1844, he lost the election for mayor of Zurich, a matter of sore regret for him. In 1847, Bluntschli decided to withdraw from Swiss politics and once again left his hometown to live in Germany. He became professor in Munich and later Heidelberg and assumed several offices in German political life.

25 Source: Wikipedia, with reference to: Reproduction from Zurich – Geschichte Kultur Wirtschaft. Gebrüder Fretz, Zurich 1932 (https://perma.cc/5KNN-XFGQ).

Bluntschli has completed two major works of international law:

- The Modern Law of War (Das moderne Kriegsrecht; 1866)
- The Modern International Law of Civilized States (Das moderne Völkerrecht der civilisierten Staaten; 1867)

"The Modern Law of War" was the product of a fruitful relationship between Bluntschli and Francis Lieber (1800–1872) of Columbia University in New York. Lieber was born in Berlin but fled to the United States from Prussia in 1826. He is famous for drafting the "Instructions for the Government of Armies of the United States in the Field", also known as the Lieber Code – a set of rules of warfare that Abraham Lincoln made applicable to the Federal Army in the U.S. Civil War in 1863.[26] Bluntschli and Lieber maintained intensive written correspondence on a range of topics: from books to read to law, politics, and theology. Their exchange was mutually beneficial, each being influenced by the thinking of the other. The relationship further culminated in the formulation of fundamental principles of international law. The principles that Lieber had formulated in the Lieber Code were expanded upon by Bluntschli in his own work "The Modern Law of War". They had a fundamental influence on the codification of the laws of war, manifested in the Convention respecting the Laws and Customs of War on Land as developed at the Hague Peace Conferences of 1899 and 1907.

With his book "The Modern International Law of Civilized States", Bluntschli successfully created a comprehensive codification of international law. He wanted to prove the legal quality of international law by overcoming the perceived conflict at the time between natural law and positive law. Unlike his contemporaries, he did not merely write a commentary on existing treaties and customs. Instead, he presented a comprehensive code that considered the dynamic or 'organic' evolution of law and society.[27] The book was written in a clear and informative manner and was thus widely received. Numerous translations led to the publication becoming influential worldwide. His code consists of 862 Articles preceded by an elaborate introduction dealing with the nature, objects, and basis of international law. It deals with the entire law of nations in three general parts:

26 Silja Vöneky, Francis Lieber (1798–1872), in: Bardo Fassbender/Anne Peters (eds.), The Oxford Handbook of the History of International Law, Oxford 2012, pp. 1137.

27 Martti Koskenniemi, The Gentle Civilizer of Nations, The Rise and Fall of International Law, Cambridge 2002, pp. 42.

- The law of peace (1–509)
- The law of war (510–741)
- The law of neutrality (742–862)

Bluntschli said of his own work:

> "*It is substantially the same kind of work as that which I early attempted with success at Zurich upon the narrow field of a little Swiss republic with reference to private law. The principles of that work were now only transferred to the broader field of civilised states in general, and were applied to the moving stream of international relations and legal opinions*".[28]

28 Herbert Baxter Adams, Bluntschli's Life-Work, Baltimore 1884, p. 26.

IV. Conclusion

Switzerland, its jurists, as Vattel, Moynier, and Bluntschli, and social activists, as Dunant, have played a leading role in the development of international law. Studying the emergence of International Humanitarian Law and the theories of International Law in their historical context contributes to an understanding of the development of International Humanitarian Law and International Law as they have evolved over the centuries.

The political and legal culture and environment in Switzerland from the 18th century onwards served not only for the natives but also for the intellectuals from all over Europe as a safe haven, where they could freely form their ideas without the fear of political persecution. In this sense Switzerland has not only manifestly promoted the development of International Law by its active role as a state in the international community but also by providing a solid breeding ground for the ideas of individuals.

Until the present day Switzerland maintained this status in the international community having not only the International Committee of the Red Cross based in Geneva but also the United Nations Office in Geneva, the World Trade Organization (WTO), the World Health Organization (WHO), the World Intellectual Property Organization (WIPO) and, among many other important UN programs, the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) to name only a few. Vattel in his "Law of Nations" conveys his own praise for his native Switzerland: "*I was born in a country of which liberty is the soul, the treasure, and the fundamental law; and my birth qualifies me to be the friend of all nations*".[29]

29 Vattel, p. 20.

Selected Bibliography

Vincent Chetail, Vattel and the American Dream: An Inquiry into the Reception of the Law of Nations in the United States, in Pierre-Marie Dupuy/Vincent Chetail (eds.), The Roots of International Law, Liber Amicorum Peter Haggenmacher, Leiden/Boston 2014, pp. 251

Charles G. Fenwick, The Authority of Vattel, in American Political Science Review, Volume 7, Issue 3, Baltimore 1913, pp. 395

Emmanuelle Jouannet, Emer de Vattel (1714–1767), in Bardo Fassbender/Anne Peters (eds.), The Oxford Handbook of the History of International Law, Oxford 2012

Christopher Keith Hall, The First Proposal for a Permanent International Criminal Court, in International Review of the Red Cross Volume 38, Issue 322, 1998, pp. 57

Robert Kolb, The Protection of the Individual in Times of War and Peace, in: Bardo Fassbender/Anne Peters (eds.), The Oxford Handbook of the History of International Law, Oxford 2012

Marti Koskenniemi, The Gentle Civilizer of Nations. The Rise and Fall of International Law, Cambridge 2002

Luigi Nuzzo/Miloš Vec, The Birth of International Law as a Legal Discipline, in the 19th Century in Luigi Nuzzo/Miloš Vec (eds.), Constructing International Law. The Birth of a Discipline, Frankfurt a.M 2012, p. IX

Meri Päivärinne, Translating Grotius's De jure belli ac pacis: Courtin vs Barbeyrac, in Translation Studies Volume 5, Issue 1, 2012, pp. 33

Dietrich Schindler/Jiří Toman, The Laws of Armed Conflicts, Dordrecht 1988

Benedict von Tscharner, Inter Gentes: Statesmen, Diplomats, Political Thinkers, Geneva 2012

Emer de Vattel, The Law of Nations, or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns, with Three Early Essays on the Origin and Nature of Natural Law and on Luxury, edited and with an introduction by Bela Kapossy/Richard Whatmore, Indianapolis 2008

Silja Vöneky, Francis Lieber (1798–1872), in: Bardo Fassbender/Anne Peters (eds.), The Oxford Handbook of the History of International Law, Oxford 2012, pp. 1138